

REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-6, 10-19, and 21-25 remain pending in the case. Claims 1-6, 10-19, and 21-25 are rejected.

Applicants respectfully note that independent Claims 1, 10, 16 and 22 recite the limitation "before resolving the problem." For instance, Claim 1 recites "before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer," and claims 10, 17 and 22 recited similar limitations. Applicants respectfully note that the Office Action mailed July 28, 2006, does not address the limitation "before resolving the problem" and is silent as to the teaching of such a limitation in any of the cited references.

35 U.S.C. §103(a)

Claims 1-3, 10-12, 16-18 and 22-24

Claims 1-3, 10-12, 16-18 and 22-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent 6,029,140 by Martin et al., hereinafter referred to as the "Martin" reference, in view of United States Patent 5,822,410 by McCausland et al., hereinafter referred to as the "McCausland" reference. Applicants have reviewed the cited reference and respectfully submit

that the present invention as recited in Claims 1-3, 10-12, 16-18 and 22-24 is not rendered obvious by Martin in view of McCausland.

Applicants respectfully direct the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A method of addressing problems associated with customer orders, comprising:
receiving an order for delivery of a product placed by a customer;
initiating a workflow process to handle delivery of product of the order to the customer;
monitoring the workflow process to detect any problems related to the delivery of the order;
notifying a human call center agent when a problem related to delivery of the product to the customer occurs during the processing of the order; and
before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer.

Independent Claims 10, 16 and 22 recite similar limitations. Claims 2 and 3 that depend from independent Claim 1, Claims 11 and 12 that depend from independent Claim 10, Claims 17 and 18 that depend from independent Claim 16, and Claims 23 and 24 that depend from independent Claim 22 provide further recitations of the features of the present invention.

Applicants respectfully note that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, Serial No.: 09/766,175

Examiner: Borissov, I.
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721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)” (see MPEP 2131.02 (VI), emphasis in original).

Applicants respectfully submit that Martin and the claimed embodiments are very different. Applicants understand Martin to teach a system for setting and reporting product delivery dates (Abstract). The system of Martin is operable to allow a human order scheduler to reschedule delivery of a customer order if the supplier is unable to meet a preferred or requested date. In particular, the rescheduling is performed prior to communicating the new delivery date to the customer, and without interacting with the customer. Applicants respectfully assert that Martin does not teach, describe or suggest a method of addressing problems associated with customer orders including “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed (emphasis added).

Moreover, Applicants respectfully note that the Examiner does not provide an indication that Martin provides such a teaching. For instance, the Office Action mailed July 28, 2006, does not address the claim limitation “before resolving the problem.”

Applicants understand Martin to teach an online delivery tracking system. A customer preferences database is maintained in which a delivery and reporting preferences for individual customers are stored (col. 2, lines 47-51). The customer preferences database includes preferred early and late delivery limits, preferred performance measurement species, and desired advance delivery times (col. 2, lines 56-59), as well as whether a user will allow rescheduling of shipments (col. 3, lines 24-28). The customer preferences database includes information collected over a long-term basis (col. 4, lines 25-27).

The system of Martin is operable to allow a human order scheduler to reschedule delivery of a customer order if the supplier is unable to meet a preferred or requested date (col. 3, line 65 through col. 4, line 50). The delivery is rescheduled "based on the customer's own rules" (col. 4, lines 25-27). These rules are maintained in the customer preferences database (col. 4, lines 27-31). In particular, the rescheduling is performed without interacting with the customer in response to detecting the need for rescheduling. Rather, the rescheduling is based on previously collected information stored in the customer preferences database. Applicants understand the purpose of the system of Martin to eliminate the need for customer contact by allowing for the rescheduling of item delivery without contacting or interacting with the customer. Once the delivery has been rescheduled, the expected delivery date is communicated to the customer (col. 4, lines 50-52). Even then, Martin does not teach, describe or

suggest that the human order scheduler interacts with the customer to communicate the expected delivery date.

In contrast, embodiments of the claimed invention are directed towards a method of addressing problems associated with customer orders including “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer” (emphasis added). As described in the present specification, for a condition which causes a transaction to fail, the call center is automatically notified (page 14, lines 20-25). A call center representative may begin researching the problem, but the problem is not resolved without customer input (page 14, line 25 through page 15, line 5). The customer is then contacted so that the call center agent can resolve the problem by interacting with the customer (page 15, lines 5-10). In particular, while steps may be taken to resolve the problem, the problem is not ultimately resolved until the call center agent interacts with the customer.

Applicants respectfully assert that Martin does not teach, describe or suggest a method of addressing problems associated with customer orders including “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed. In contrast, Martin teaches a system for rescheduling

delivery of a customer order without interacting with a customer. Moreover, the customer is not contacted until the delivery has been rescheduled. By teaching that the delivery is rescheduled without interaction with the customer in response to the need for rescheduling, Martin teaches away from “before resolving the problem”, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed (emphasis added).

Furthermore, the combination of Martin and McCausland fails to teach or suggest the claimed embodiments because McCausland does not overcome the shortcomings of Martin. Applicants understand McCausland to teach a churn amelioration system. In particular, McCausland does not teach, describe or suggest “before resolving the problem”, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed (emphasis added).

Moreover, the combination of Martin and McCausland fails to teach or suggest the present invention as claimed because the combination of Martin and McCausland does not satisfy the requirements of a *prima facie* case of obviousness. In order to establish a *prima facie* case of obviousness, the prior art must suggest the desirability of the claimed invention (MPEP 2142). In

particular, “if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious” (emphasis added) (MPEP 2143.01; *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)). Moreover, “[i]f the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed amendment” (emphasis added) (MPEP 2143.01; *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)).

As described above, Applicants understand Martin to teach a system for rescheduling delivery of a customer order without interaction with the customer in response to the need for rescheduling. Specifically, Applicants understand that the intended purpose of Martin is to provide for rescheduling delivery without interacting with the customer in response to determining the need for rescheduling. Moreover, the customer is not contacted until after the rescheduled delivery date has been set. In particular, Applicants respectfully submit that the purpose of Martin is to resolve problems without customer interaction. By teaching that the delivery is rescheduled without interaction with the customer in response to the need for rescheduling, Martin teaches away from “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the

problem occurs to resolve the problem based at least in part on input of the customer,” as claimed (emphasis added).

In particular, the principle of operation of Martin is to perform rescheduling based on stored customer information and without interacting with the customer based on the need for rescheduling. Applicants respectfully assert that interacting with a customer to reschedule delivery would render Martin inoperable for its intended purpose. Therefore, Applicants respectfully assert that there is no suggestion to modify the teachings of Martin and McCausland as suggested by the Examiner, as the teaching of Martin teach away from the operation as suggested by the Examiner.

Applicants respectfully note and disagree with the Examiner’s assertion that “[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Martin to include that said proactively notifying the customer in response to the problem includes establishing a telephonic interaction between said human call center agent, as disclosed by McCausland, because it would advantageously allow to identify situations leading to customer dissatisfaction, and to propose actions to address said situations before the customer is irritated enough to complain, therefore building customers’ loyalty, as specifically stated in McCausland.”

In particular, Applicants respectfully note that “[a] prior art reference must be considered in its entirety” (MPEP 2141.02 (VI)). As described above, the intended purpose of Martin is to resolve problems without requiring interaction with a user. Therefore, Applicants respectfully submit that Martin teaches away from such a combination.

In view of the claim limitations of “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” not being shown or suggested in Martin in view of McCausland, in combination with the above arguments, Applicants respectfully submit that independent Claims 1, 10, 16 and 22 overcome the cited reference and are therefore allowable over Martin in view of McCausland. Therefore, Applicants respectfully submit that Martin in view of McCausland also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2 and 3 that depend from independent Claim 1, Claims 11 and 12 that depend from independent Claim 10, Claims 17 and 18 that depend from independent Claim 16, and Claims 23 and 24 that depend from independent Claim 22. Applicants respectfully submit that Claims 2, 3, 11, 12, 17, 18, 23 and 24 also overcome the rejection under 35 U.S.C. § 103(a) as these claims are dependent on allowable base claims.

Claims 4, 13, 19 and 25

Claims 4, 13, 19 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of McCausland, further in view of Official Notice. Claim 4 depends from independent Claim 1, Claim 13 depends from independent Claim 10, Claim 19 depends from independent Claim 16, and Claim 25 depends from independent Claim 22. Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 4, 13, 19 and 25 is not rendered obvious by Martin in view of McCausland, further in view of Official Notice.

As described above in the discussion of the 35 U.S.C. § 103(a) rejection of Claims 1-3, 10-12, 16-18 and 22-24, Applicants respectfully assert that Martin in view of McCausland does not teach, describe or suggest a method of addressing problems associated with customer orders including “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed (emphasis added). In contrast, Martin teaches a system for rescheduling delivery of a customer order without interacting with a customer. By teaching that the delivery is rescheduled without interaction with the customer in response to the need for rescheduling, Martin teaches away from such a configuration.

Moreover, the combination of Martin in view of McCausland, further in view of Official Notice fails to teach or suggest the present invention as claimed because Official Notice does not overcome the shortcomings of Martin in view of McCausland. Official Notice, alone or in combination with Martin in view of McCausland, does not show or suggest a method of addressing problems associated with the delivery of a product of customer orders, as claimed. Specifically, Official Notice does not teach, describe or suggest a method of addressing problems associated with customer orders including “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed.

In view of the claim limitations of “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” not being shown or suggested in Martin in view of McCausland, further in view of Official Notice, in combination with the above arguments, Applicants respectfully submit that independent Claims 1, 10, 16 and 22 overcome the cited reference and are therefore allowable over Martin in view of McCausland, further in view of Official Notice. Therefore, Applicants respectfully submit that Martin in view of McCausland, further in view of Official Notice also does not teach or suggest the additional claimed features of the present invention as recited in Claim 4 that depends from independent Claim 1,

Claim 13 that depends from independent Claim 10, Claim 19 that depends from independent Claim 16, and Claim 25 that depends from independent Claim 22. Applicants respectfully submit that Claims 4, 13, 19 and 25 also overcome the rejection under 35 U.S.C. § 103(a) as these claims are dependent on allowable base claims.

Claims 5, 6, 14 and 15

Claims 5, 6, 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of McCausland, further in view of United States Patent 6,530,518 by Krichilsky et al., hereinafter referred to as the “Krichilsky” reference. Claims 5 and 6 depend from independent Claim 1 and Claims 14 and 15 depend from independent Claim 10. Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 5, 6, 14 and 15 is not rendered obvious by Martin in view of McCausland, further in view of Krichilsky.

As described above in the discussion of the 35 U.S.C. § 103(a) rejection of Claims 1-3, 10-12, 16-18 and 22-24, Applicants respectfully assert that Martin in view of McCausland does not teach, describe or suggest a method of addressing problems associated with customer orders including “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed

(emphasis added). In contrast, Martin teaches a system for rescheduling delivery of a customer order without interacting with a customer. By teaching that the delivery is rescheduled without interaction with the customer in response to the need for rescheduling, Martin teaches away from such a configuration.

Moreover, the combination of Martin in view of McCausland, further in view of Krichilsky fails to teach or suggest the present invention as claimed because Krichilsky does not overcome the shortcomings of Martin in view of McCausland. Krichilsky, alone or in combination with Martin in view of McCausland, does not show or suggest a method of addressing problems associated with the delivery of a product of customer orders, as claimed. Applicants understand Krichilsky to teach a method for viewing product delivery information. Specifically, Krichilsky does not teach, describe or suggest a method of addressing problems associated with customer orders including “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” as claimed.

In view of the claim limitations of “before resolving the problem, proactively establishing a telephonic interaction between said human call center agent and the customer when the problem occurs to resolve the problem based at least in part on input of the customer,” not being shown or suggested in Martin

in view of McCausland, further in view of Krichilsky, in combination with the above arguments, Applicants respectfully submit that independent Claims 1 and 10 overcome the cited reference and are therefore allowable over Martin in view of McCausland, further in view of Krichilsky. Therefore, Applicants respectfully submit that Martin in view of McCausland, further in view of Krichilsky also does not teach or suggest the additional claimed features of the present invention as recited in Claims 5 and 6 that depend from independent Claim 1 and Claims 14 and 15 that depend from independent Claim 10. Applicants respectfully submit that Claims 5, 6, 14 and 15 also overcome the rejection under 35 U.S.C. § 103(a) as these claims are dependent on allowable base claims.

CONCLUSION

Based on the arguments presented above, Applicants respectfully assert that Claims 1-6, 10-19 and 22-25 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,
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